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PLEASE REFER TO

January 20, 2012

Via ECF

Chief Magistrate Steven M. Gold
United States District Court
Eastern District of New York
225 Cadman Plaza, East
Brooklyn, NY 11201

Re: Rodriguez v. the City of New York
P.A. Jr. v City of New York
10 CV 4661

Dear Magistrate Gold:

In compliance with Your Honor's prior order (docket entry #165), we write on behalf of our clients, the City of New York and its individually named employees regarding the matters we seek to have the Court address at the January 27, 2012 conference.

Initially, I want to advise Your Honor that Mr. Alford Sr. was shot in the head Monday, and remains in critical condition at Brookdale Hospital. Mr. Lambert and I have spoken about his client's condition. My understanding is that Mr. Alford remains unconscious, having undergone surgery. I believe we need to defer moving forward with discovery until we know the time period when he may be incapacitated, and whether a guardian needs to be appointed for Mr. Alford and J.A. pursuant to Rule 17 of the Federal Rules of Civil Procedure.

The parties spoke yesterday in a "meet and confer" conference call, and we discussed this and other issues.

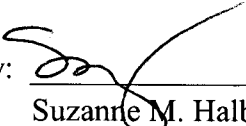
Mr. Osuna on behalf of Ms. Rodriguez has not served any responses to our discovery demands or our interrogatories. In yesterday's conference, he asked for an extension of time to January 31, 2012. I told him I would agree to the extension assuming Your Honor consented. However, I am concerned that the other plaintiffs seem determined to push forward with discovery. I believe that all three cases should be litigated together, and I don't want my clients being forced to move forward with discovery when I am not provided with discovery responses from one of the attorneys on the plaintiffs' side.

I have agreed to review and address some concerns raised by the Skadden firm. The City has produced almost 15,000 documents in response to the discovery demands served by plaintiffs' counsel, and we will continue to produce additional documents as they are located. Although we have had several conversations with the Skadden firm regarding electronic materials, there has been no agreement on parameters of ESI production.

I also advised Mr. Lambert and the Skadden firm of issues we had with their disclosure, and will follow up in emails to them. I don't believe we will need to address these issues at the conference.

Thank you.

Respectfully submitted,
BARRY, MCTIERNAN & MOORE

By: 
Suzanne M. Halbardier

SMH:lm
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